REMARKS:

Claims 1-71 are currently pending in the application. Claims 1-71 stand subject to a restriction and/or election requirement. Claims 1-71 stand rejected under 35 U.S.C. § 101.

By this Amendment, the Applicants have amended independent claims 1, 9, 17, and 25 and dependent claims 18-24 in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants make no admission concerning the merits of the Examiner's rejection, and respectfully deny any statement or averment of the Examiner not specifically addressed. Particularly, the Applicants reserve the right to file additional claims in this Application or through a continuation patent Application of substantially the same scope of originally filed claims 1-71. No new matter has been added.

RESTRICTION REQUIREMENT:

Claims 1-71 stand subject to a restriction and/or election requirement. Specifically, the Examiner alleges that the subject Application contains claims directed to the following eight Groups of unrelated claimed inventions (20 December 2005 Office Action, Page 1):

Group I.   Claims 1-5, 7-13, and 15-25, drawn to a method and system for generating a price schedule, classified in class 705, subclass 22.

Group II.   Claims 6, 14, and 26, drawn to a method and system for generating a price schedule employing an elasticity curve, classified in class 700, subclass 36.

Group III.   Claims 27-33, 48, and 49, drawn to a method and system for computing an elasticity curve employing filter sets, classified in class 708, subclass 300.

Group IV.   Claims 34-47, drawn to a system for computing an elasticity curve employing database and a server, classified in class 709, subclass 203.

Group V.   Claims 50-53 and 58-62, drawn to a method and system for determining a sales forecast employing inventory estimates, classified in class 705, subclass 10.

Group VI.   Claims 54-57, drawn to a system for determining a sales forecast employing database and a server, classified in class 705, subclass 28.

Group VII.   Claim 63, drawn to a method for determining a sales forecast employing incomplete beta functions, classified in class 705, subclass 1.

Group VIII.   Claims 64-71, drawn to a method for generating a price schedule employing quantization, classified in class 705, subclass 400.

The Applicants elect, without traverse, to pursue Group I, including claims 1-5, 7-13, and 15-25.

Group I is directed to a method and system for generating a price schedule. The Applicants respectfully submit that the foregoing election is not acquiescence in the propriety of the restriction or in the accuracy in the determination and/or identification of the alleged "unrelated inventions" in the subject Application.

The Examiner is invited to contact the undersigned at (817) 447-9955 with any questions, comments, or suggestions relating to the Restriction Requirement in the subject Application.

REJECTION UNDER 35 U.S.C. § 101:

Claims 1-71 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Specifically, the Examiner states that "the claims produce no tangible result." (20 December 2005 Office Action, Page 2). The Applicants respectfully disagree.

Nonetheless, the Applicants have amended independent claims 1, 9, 17, and 25 and dependent claims 18-24 in an effort to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 101, as set forth in the Office Action.

In addition, it appears that the Examiner may be basing the 35 U.S.C. § 101 rejection on an alleged failure to be *within the technological arts*. The Applicants respectfully disagree with this type of rejection. For example, the Board of Patent Appeals and Interferences has recently ruled that no such test exists:

> Our determination is that ***there is currently no judicially recognized separate "technological arts" test to determine patent eligible subject matter under § 101***. We decline to propose to create one. Therefore, it is apparent that ***the examiner's rejection can not be sustained***.

Ex parte Lundren, Appeal No. 2003-2088, Application 08/093,516 (Precedential BPAI opinion September 2005). (Emphasis Added).

Thus, the Applicants respectfully submit that if the Examiner is basing the 35 U.S.C. § 101 rejection on an alleged failure to be *within the technological arts* then *the rejection cannot be sustained and is based on an improper test*.

The Applicants respectfully further submit that amended independent claims 1, 9, 17, and 25 are considered to be in full compliance with the requirements of 35 U.S.C. § 101. With respect to dependent claims 2-5, 7, 8, 10-13, 15, 16, and 18-24: claims 2-5, 7,

and 8 depend from amended independent claim 1; claims 10-13, 15, and 16 depend from amended independent claim 9; and claims 18-24 depend from amended independent claim 17. The Applicants further submit that claims 2-5, 7, 8, 10-13, 15, 16, and 18-24 are also considered to be in full compliance with the requirements of 35 U.S.C. § 101. Accordingly, reconsideration and withdrawal of the rejection of claims 1-71 under 35 U.S.C. § 101 are respectfully requested.

In addition, the Applicants respectfully request that the Examiner call the undersigned at (817) 447-9955, if the Examiner has additional comments or suggestions to the 35 U.S.C. § 101 rejection of the subject Application or if the Examiner believes it would be easier to discuss the 35 U.S.C. § 101 rejection over the telephone.

IMPROPER REJECTION UNDER 35 U.S.C. § 112:

The Applicants respectfully submit that the Examiner's assertion of an implied possible future rejection under 35 U.S.C. § 112 is improper. Specifically, the Examiner asserts "depending on the group selected for examiner, the relative terms optimal and incomplete will receive a 35 U.S.C. § 112, paragraph 2 rejection." (20 December 2005 Office Action, Page 2). The Applicants respectfully disagree with this assertion and respectfully request that if the Examiner believes a 35 U.S.C. § 112, paragraph 2 rejection is proper, then the Examiner must expressly state such rejection in the Office Action, thereby providing the Applicants an opportunity to respond to an actual expressed rejection.

Thus, the Applicants do not consider the Examiner's assertion to be a valid, proper, or even legitimate 35 U.S.C. § 112, paragraph 2 rejection, in the 20 December 2005 Office Action and as such, cannot properly respond.
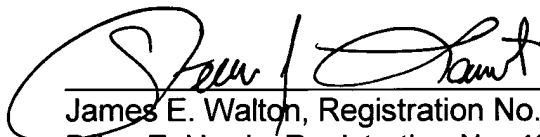
CONCLUSION:

In view of the foregoing amendments, election without traverse, and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

3/2/06
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